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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,800	11/24/2003	Donna K. Hodges	BS030349	5440
<div>7590 08/13/2007</div> <div>Scott P. Zimmerman P.O. Box 3822 Cary, NC 27519</div>				
			EXAMINER SIKRI, ANISH	
			ART UNIT 2143	PAPER NUMBER
			MAIL DATE 08/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A4

Office Action Summary	Application No.	Applicant(s)	
	10/720,800	HODGES ET AL.	
	Examiner	Art Unit	
	Anish Sikri	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/08/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 03/08/04 been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **1-2** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan et al (US Patent 6,016,307), in view of Redlich et al (US Pub 2003/0051054), and in further view of Ofek et al (US Patent 6,385,198).

Consider **Claim 1**, Kaplan et al discloses a method of providing communications services, comprising: receiving a request for data (Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3), assessing in real-time an availability of network routing to fulfill the request (Kaplan et al, Col 5, Lines 60-67); assessing in real-time an availability of network bandwidth to fulfill the request (Kaplan et al, Col 7, Lines 49-57);

But Kaplan et al fails to disclose ascertaining a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request and the electronic data fulfilling the request, the electronic data formatted according to the preferred scenario

Nonetheless, Redlich et al discloses ascertaining a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request and and the electronic data fulfilling the request, the electronic data formatted according to the preferred scenario (Redlich et al, Page 22, [0191], [0197]);

Kaplan et al fails to disclose sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path the reservation specifying a window of time in which the packets of data are received and processed.

Nonetheless, Ofek et al discloses sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path (Ofek et al, Col 6, Lines 23-30, 50-56), the reservation specifying a window of time in which the packets of data are received and processed (Ofek et al, Col 6, Lines 23-30, 50-56).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, and including reservation of a routing path, taught by Ofek et al, in the system of Kaplan et al for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Consider **Claim 2**, Kaplan et al, as modified by Redlich et al and Ofek et al, discloses a the method according to claim 1, wherein ascertaining the preferred scenario comprises assessing a highest quality scenario and a lowest cost scenario (Kaplan et al, Col 5, Lines 23-30, Lines 44-49, Col 7, Lines 45-49), the highest quality scenario (Kaplan et al, Col 5, Lines 23-30, Lines 44-49, Col 7, Lines 45-49)

But, Kaplan et al fails to disclose the combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation and the lowest cost presentation, with degraded quality.

Redlich et al discloses the combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation (Redlich et al, Page 22, [0191], [0197]) and the lowest cost presentation, with degraded quality (Redlich et al, Page 22, [0191], [0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, in the system of Kaplan et al, as modified by Ofek et al, for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Claims **3-8, 13, 15, 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacevic (US Pub 2005/0060420), in view of Dan et al (US Pub 2006/0206619).

Consider **Claim 3**, Kovacevic discloses the method of providing communications services, comprising: receiving a first data stream comprising packets of data packetized according to a packet protocol (Kovacevic, Page 2 [0024]); dispersing at least one segment via a network for a subsequent processing service (Kovacevic, Page 3, [0026]-[0027]); receiving a result of the processing service; assembling a second data stream (Kovacevic, Page 2 [0024]), the second data stream comprising the result of the processing service and unprocessed segments (Kovacevic, Page 2 [0024]); and communicating the second data stream via the network (Kovacevic, Page 2 [0024]).

Kovacevic fails to disclose the segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement defining parameters for communications service for the subscriber.

Nonetheless, Dan et al, discloses the segmenting the first data stream into segments according to a Service Level Agreement (Dan et al, Page 1, [0010]), the Service Level Agreement defining parameters for communications service for the subscriber (Dan et al, Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in

the system of Kovacevic, for the purpose of enabling the user to agree to the use of SLA before accessing multiple data streams provided by the provider as a service.

Consider **Claim 4** the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose the issuing an assertion to a subcontractor that indicates the subcontractor correctly performed the subsequent processing service (according to the Service Level Agreement).

Nonetheless, Dan et al, discloses the issuing an assertion to a subcontractor that indicates the subcontractor correctly performed the subsequent processing service (Dan et al, Page 2, [0025], [0031]) according to the Service Level Agreement (Dan et al, Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of ensuing the subscriber that the third party does carry out functions as stated in the SLA, which is provided by the service provider.

Consider **Claim 5**, the method according to **claim 4**, Kovacevic as modified by Dan et al fails to disclose the assertion is certified to reduce the incidence of fraudulent assertions (Dan et al, Page 2, [0025], [0073]).

Nonetheless, Dan et al, discloses the assertion is certified to reduce the incidence of fraudulent assertions (Dan et al, Page 2, [0025], [0073]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make use of minimizing fraudulent assertions, taught by Dan et al, in the system of Kovacevic, for the purpose of providing efficient service to the subscriber from the provider. Minimizing fraudulent assertions helps the subscriber from not violating the SLA, and at the same helps the provider to maintain proper use of resources.

Consider **Claim 6**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose an assertion from the subscriber that confirms the Service Level Agreement was satisfied (Dan et al, Page 4, [0054], Page 5 [0063]).

Nonetheless, Dan et al, discloses an assertion from the subscriber that confirms the Service Level Agreement was satisfied (Dan et al, Page 4, [0054], Page 5 [0063]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make use of subscriber confirmation of approving the SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of providing efficient service to the subscriber from the provider, and as the provider gets confirmation that the subscriber have agreed to the terms stated in the SLA prior to the use of the services provided.

Consider **Claim 7**, the method according to **claim 6**, Kovacevic as modified by Dan et al fails to disclose the method of receiving a volume of assertions from subscribers as indications of trust that each subscriber's Service Level Agreement will be satisfied.

Nonetheless, Dan et al, discloses the method of receiving a volume of assertions from subscribers as indications of trust (Dan et al, Page 2, [0025], [0073], Page 5, [0063], [0069], [0073]) that each subscriber's Service Level Agreement will be satisfied (Dan et al, Page 4, [0054], Page 5 [0063]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make use of subscriber confirmation of approving the SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of providing efficient service to the subscriber from the provider, as the provider gets confirmation that the subscribers have agreed to the terms stated in the SLA prior to the use of the services provided.

Consider **Claim 8**, the method according to **claim 6**, Kovacevic as modified by Dan et al fails to disclose when the service level agreement is satisfied, and the subscriber fails to provide the assertion (Dan et al, Page 4, [0054], Page 5 [0063]), then further comprising denying communications services to the subscriber (Dan et al, Page 4, [0054], Page 5 [0063]).

Nonetheless, Dan et al, disclose when the service level agreement is satisfied, and the subscriber fails to provide the assertion (Dan et al, Page 4, [0054], Page 5 [0063]), then further comprising denying communications services to the subscriber (Dan et al, Page 4, [0054], Page 5 [0063]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make use of subscriber failure of approving the SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of denying the service to the subscriber from the provider, as the provider does not have confirmation that the subscriber has agreed to the terms stated in the SLA prior to the use of the service.

Consider **Claim 13**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose the processing a segment according to the Service Level Agreement.

Nonetheless, Dan et al discloses the processing a segment according to the Service Level Agreement (Dan et al, Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make use of subscriber confirmation of approving the SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of providing efficient service to the subscriber from the provider, and as the provider gets confirmation that the subscriber have agreed to the terms stated in the SLA prior to the use of the services provided.

Consider **Claim 15**, Kovacevic discloses the means of providing communications services, comprising: means for receiving a first data stream comprising packets of data packetized according to a packet protocol (Kovacevic, Page 2 [0024]); means for dispersing at least one segment via a network for a subsequent processing service (Kovacevic, Page 3, [0026]-[0027]); means for receiving a result of the processing service; means for assembling a second data stream (Kovacevic, Page 2 [0024]), the second data stream comprising the result of the processing service and unprocessed segments (Kovacevic, Page 2 [0024]); and means for communicating the second data stream via the network (Kovacevic, Page 2 [0024]).

Kovacevic fails to disclose the means for segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement defining parameters for communications service for the subscriber.

Nonetheless, Dan et al, discloses the means for segmenting the first data stream into segments according to a Service Level Agreement (Dan et al, Page 1, [0010]), the Service Level Agreement defining parameters for communications service for the subscriber (Dan et al, Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in the system of Kovacevic, for the purpose of enabling the user to agree to the use of SLA before accessing multiple data streams provided by the provider as a service.

Consider **Claim 16**, Kovacevic discloses the computer-readable instructions for providing communications services, comprising: receiving a first data stream comprising packets of data packetized according to a packet protocol (Kovacevic, Page 2 [0024]); dispersing at least one segment via a network for a subsequent processing service (Kovacevic, Page 3, [0026]-[0027]); receiving a result of the processing service; assembling a second data stream (Kovacevic, Page 2 [0024]), the second data stream comprising the result of the processing service and unprocessed segments (Kovacevic, Page 2 [0024]); and communicating the second data stream via the network (Kovacevic, Page 2 [0024]).

Kovacevic fails to disclose the segmenting the first data stream into segments according to a Service Level Agreement, the Service Level Agreement defining parameters for communications service for the subscriber.

Nonetheless, Dan et al, discloses the segmenting the first data stream into segments according to a Service Level Agreement (Dan et al, Page 1, [0010]), the Service Level Agreement defining parameters for communications service for the subscriber (Dan et al, Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in the computer-readable instructions of Kovacevic, for the purpose of enabling the user to agree to the use of SLA before accessing multiple data streams provided by the provider as a service.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacevic (US Pub 2005/0060420), in view of Dan et al (US Pub 2006/0206619), and in further view of Ofek et al (US Patent 6,385,198).

Consider **Claim 9**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose a reservation to reserve a routing path, the reservation instructing a device to only accept a segment destined for that routing path, the reservation specifying a window of time in which the segment must be received and processed.

Nonetheless, Ofek et al, discloses a reservation to reserve a routing path (Ofek et al, Col 6, Lines 23-30, 50-56), the reservation instructing a device to only accept a segment destined for that routing path, the reservation specifying a window of time in which the segment must be received and processed (Ofek et al, Col 6, Lines 23-30, 50-56).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate including reservation of a routing path, taught by Ofek et al, in the system Kovacevic, as modified by Dan et al, for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Claim **10, 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacevic (US Pub 2005/0060420), in view of Dan et al (US Pub 2006/0206619), and in further view of Redlich et al (US Pub 2003/0051054).

Consider **Claim 10**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose the highest quality scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation.

Nonetheless, Redlich et al discloses the highest quality scenario that describes a combination of segmentation, dispersion (Redlich et al, Page 22, [0191], [0197]), and assemblage of segments that achieves a highest quality of presentation (Redlich et al, Page 22, [0191], [0197]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, in the system of Kovacevic, as modified by Dan et al for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Art Unit: 2143

Consider **Claim 14**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose the scenario of segmentation, dispersion, and assemblage of electronic data.

Nonetheless, Redlich et al, discloses the scenario of segmentation, dispersion, and assemblage of electronic data (Redlich et al, Page 22, [0191], [0197]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, in the system of Kovacevic, as modified by Dan et al for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Claims **11, 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacevic (US Pub 2005/0060420), in view of Dan et al (US Pub 2006/0206619), in further view of Kaplan et al (US Patent 6,016,307) and in further view of Redlich et al (US Pub 2003/0051054).

Consider **Claim 11**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose ascertaining a lowest cost scenario.

Nonetheless, Kaplan et al, discloses ascertaining a lowest cost scenario (Kaplan et al, Col 5, Lines 23-30, Lines 44-49, Col 7, Lines 45-49).

Kovacevic as modified by Dan et al fails to disclose a combination of segmentation, dispersion, and assemblage of segments.

Nonetheless, Redlich et al, discloses a combination of segmentation, dispersion and assemblage of segments (Redlich et al, Page 22, [0191], [0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, and enabling lowest cost in communications, taught by Kaplan et al in the system of Kovacevic, as modified by Dan et al, for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Consider **Claim 12**, the method according to **claim 3**, Kovacevic as modified by Dan et al fails to disclose ascertaining a most profitable scenario that achieves highest profit.

Nonetheless, Kaplan et al, discloses ascertaining a profitable scenario that achieves highest profit (Kaplan et al, Col 5, Lines 23-30, Lines 44-49, Col 7, Lines 45-49).

Kovacevic as modified by Dan et al fails to disclose a combination of segmentation, dispersion, and assemblage of segments.

Nonetheless, Redlich et al, discloses a combination of segmentation, dispersion and assemblage of segments (Redlich et al, Page 22, [0191], [0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate segmentation, dispersion, and assemblage of electronic data, taught by Redlich et al, and enabling profitable scenario in communications, taught by Kaplan et al in the system of Kovacevic, as modified by Dan et al, for the purpose of enabling reliable, robust and priority based communications between the service provider and the subscriber.

Conclusion

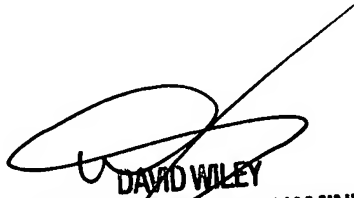
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Sikri whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

August 2, 2007


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